

1 John K. Skousen (SBN 192581)
 jskousen@fisherphillips.com
 2 Jason A. Geller (SBN 168149)
 jgeller@fisherphillips.com
 3 Aaron M. Cargain (SBN 281336)
 acargain@fisherphillips.com
 4 FISHER & PHILLIPS LLP
 One Embarcadero Center, Suite 2050
 5 San Francisco, California 94111
 Telephone: (415) 490-9000
 6 Facsimile: (415) 490-9001

7 Attorneys for Defendant
 BALL METAL BEVERAGE CONTAINER CORP.

9 Matthew R. Eason, Esq., SBN 160148
 Matthew@capcityLaw.com
 10 Kyle K. Tambornini, Esq., SBN 160538
 kyle@capcitylaw.com
 11 EASON & TAMBORNINI, ALC
 12 1234 H Street, Suite 200
 13 Sacramento, CA 95814
 Telephone: (916) 438-1819
 14 Facsimile: (916) 438-1820

15 Attorneys for Plaintiffs and the Class

17 UNITED STATES DISTRICT COURT
 18 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

19 ROBERT WESTFALL, DAVID E.
 20 ANDERSON, LYNN BOBBY, and DAVID
 ELLINGER,

21 Plaintiffs,

22 v.

23 BALL METAL BEVERAGE CONTAINER
 24 CORP.,

25 Defendant.

Case No: 2:16-cv-02632-KJM-CKD

**JOINT STIPULATION REQUESTING
 MODIFICATION OF THE COURT'S
 ORDER GRANTING PRELIMINARY
 APPROVAL OF CLASS ACTION
 SETTLEMENT; ORDER**

1 This Joint Stipulation Requesting Modification of the Court’s Order Granting Preliminary
2 Approval of the Class Action Settlement (“Joint Stipulation”) is entered into by Plaintiff Robert Westfall
3 as the Representative Plaintiff (on behalf of himself and each of the Settlement Class Members) and
4 Defendant Ball Metal Beverage Container Corp. (Plaintiff and Defendant are collectively referred to as
5 “Settling Parties”). The Settling Parties ask this Court to modify its September 16, 2021 Order granting
6 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement to allow the Settling Parties to
7 amend the notice packet and reset the notice period. In addition, the Settling Parties request that the final
8 approval hearing set for March 25, 2022 and related briefing schedule for Final Approval Motion and
9 Motion for Award of Attorneys’ Fees and Costs be reset in accordance with the new notice period.

10 IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES:

- 11 1. Pursuant to the Court’s September 16, 2021 Order granting Plaintiff’s Motion for
12 Preliminary Approval of Class Action Settlement, Settlement Class Members were to
13 have 45 days from the mailing of the notice packet to opt out of or object to the terms of
14 the Class Action Settlement. Class Members also have 45 days to submit disputes
15 concerning Defendant’s representation as to Class Member work weeks.
- 16 2. The Claim Administrator mailed the notice packet on December 23, 2021. Therefore,
17 pursuant to this Court’s Order, Class Members were to have until February 6, 2022 to
18 submit opt outs, objections, or disputes as to Defendant’s work week counts (“objection
19 period”).
- 20 3. The notice packet mailed out to the Settlement Class Members called for opt outs,
21 objections, and disputes to be submitted by January 14, 2022. As such, the notice period
22 provided in the notice packet incorrectly cut short the objection period by 23 days.
- 23 4. Because of the timing defect above, the parties would also like to clarify potentially
24 ambiguous language at page 5, as well as some other minor scriveners’ errors.
- 25 5. The Settling Parties therefore ask this Court to modify its Order to allow the Settling
26 Parties to reset the notice period and allow for an amended notice to be mailed to the
27 Settlement Class Members which will allow for the full 45 days to opt our or object to
28

1 the class action settlement. Attached hereto as Exhibit "1" is a true and correct copy of
2 the proposed Amended Notice.

3 6. The Settling Parties further request that the Final Approval Hearing set for March 25,
4 2022 be reset to a later date along with the briefing schedule for the Final Approval
5 Motion and Motion for Award of Attorneys' Fees and Costs. The Settling Parties propose
6 resetting the Final Approval Hearing for 60 days from the March 25, 2022 date.

7
8 IN WITNESS WHEREOF, the parties hereto have caused this Joint Stipulation to be executed
9 by their duly authorized representatives. This Joint Stipulation may be executed in counterparts.

10
11 Date: FISHER & PHILLIPS LLP

12
13 _____
14 JOHN K. SKOUSEN
15 JASON A. GELLER
16 AARON M. CARGAIN
17 Attorneys for Defendant
18 BALL METAL BEVERAGE CONTAINER CORP.

19 Date: EASON & TAMBORNINI, ALC

20 _____
21 MATTHEW R. EASON
22 KYLE K. TAMBORNINI
23 ERIN M. SCHARG
24 Attorneys for Plaintiffs and the Class
25
26
27
28

ORDER

This Joint Stipulation Requesting Modification of the Court’s Order Granting Preliminary Approval of the Class Action Settlement—which will allow the Settling Parties to amend the notice packet and reset the notice period, Final Approval Hearing, and related briefing schedule for the Motion for Final Approval and Motion for Award of Attorneys’ Fees and Costs (“Joint Stipulation”)—is entered into by Plaintiff Robert Westfall as the Representative Plaintiff (on behalf of himself and each member of the Settlement Class) and Defendant Ball Metal Beverage Container Corp. The court has considered the parties’ Joint Stipulation.

NOW THEREFORE, IT IS HEREBY ORDERED:

Under the facts and circumstances as presented, this court approves the Amended Notice and resets the notice period. The Final Approval hearing is reset to May 27, 2022. The Motion for Final Approval and Motion for Award of Attorneys’ Fees and Costs shall be filed 40 days in advance of the new Final Approval Hearing date.

IT IS SO ORDERED.

DATED: February 8, 2022.



CHIEF UNITED STATES DISTRICT JUDGE